

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Harold L. Jackson and Margaret S. Pence, et al)
 Dist. D02, Block 55, Parcel 00674) Shelby County
 Residential Property)
 Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$923,600	\$ -0-	\$923,600	\$230,900

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 9, 2008 in Memphis, Tennessee. The taxpayers were represented by Eulyse M. Smith, Esq. The assessor of property was represented by John Zelinka, Esq.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 7.62 acre tract located on Shelby Drive in Memphis, Tennessee.

The parties stipulated that subject property should be appraised at \$360,000 if the State Board of Equalization has jurisdiction in this matter. The jurisdictional issue arises from the fact the taxpayers filed a direct appeal with the State Board of Equalization on July 20, 2007 without having first appealed to the Shelby County Board of Equalization.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of

them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992). See also *John Orovets* (Assessment Appeals Commission, Cheatham County, Tax Year 1991). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayers must show that circumstances beyond their control prevented them from appealing to the Shelby County Board of Equalization.

The facts culminating in the taxpayers' appeal are not in dispute. Indeed, the assessor of property did not oppose the taxpayers' contention that reasonable cause exists for their not appealing to the Shelby County Board of Equalization.

Essentially, the taxpayers received an assessment change notice during the last week of April 2007. The taxpayers called the assessor's office on May 1, 2007 and were advised that they would be contacted after the revised appraisal was reviewed. For whatever reason, the taxpayers did not receive any response. The taxpayers proceeded to file the instant appeal after receiving a tax bill on July 7, 2007.¹

The administrative judge finds the taxpayers established reasonable cause for not appealing to the Shelby County Board of Equalization. Accordingly, the administrative judge finds the State Board of Equalization has jurisdiction to adopt the stipulated value of \$360,000.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$360,000	\$ -0-	\$360,000	\$90,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of


¹ The deadline for appealing to the Shelby County Board of Equalization was June 30, 2007.

Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 16th day of January, 2008.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Eulyse M. Smith, Esq.
Tameaka Stanton-Riley, Appeals Manager